IN THE

Supreme Court of the United States

No. 71-1184

JACK ROSE,
Petitioner, Defendant and Appellant Below

and

DORIS ROSE,
Respondent, Plaintiff and Defendant and Appellee Below

vs.

NATIONAL BANK OF DETROIT,
Respondent, Plaintiff and Appellee Below.

PETITION FOR WRIT OF CERTIORARI TO THE OAKLAND COUNTY CIRCUIT COURT OF THE STATE OF MICHIGAN

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THE INLAND PRESS, DETROIT, MICHIGAN

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To the Chief "Justice" and Associate "Justices" of the Supreme Court of the United States

Petitioner demands (knowing his demand will be denied) that a writ of certiorari issue to review "orders" of the Oakland County Circuit Court, the right to appeal which "orders" has been denied by the Court of Appeals of Michigan and leave to appeal which "orders" has been denied by the Supreme Court of Michigan.

ORDERS BELOW

The "orders" in the courts below are:

U Order of the Trial Court (Oakland County Circuit Court, Sixth Judicial Circuit of Michigan, "Judge" James S. Thorburn) remunerating receiver. Dated October 7, 1970 (p. 9).

V Order of the Trial Court allowing intervention. Dated February 17, 1971 (p. 10).

W Order of the Trial Court requiring disbursement. Dated February 17, 1971 (p. 12).

X Order of the Court of Appeals dismissing appeal of the Trial Court's order of October 7, 1970. Dated May 5, 1971 (p. 14).

Y Order of the Court of Appeals dismissing the Trial Court's orders of February 17, 1971. Dated May 5, 1971 (p. 15).

Z Order of the Court of Appeals awarding costs. Dated May 28, 1971 (p. 16).

AA Order of the Michigan Supreme Court denying leave to appeal the Court of Appeals' orders of May 5 and May 28, 1971. Dated December 14, 1971 (p. 17).

BB Order of the Michigan Supreme Court denying leave to appeal the Court of Appeals' order of May 5, 1971. Dated December 16, 1971 (p. 18).

CC Order of the Michigan Supreme Court denying rehearing of its order of December 16, 1971. Dated January 13, 1972 (p. 19).

DD Order of the Michigan Supreme Court denying rehearing of its order of December 14, 1971. Dated January 13, 1972 (p. 20).

Copies of these "orders" are attached in the appendix and identified with matching letters.

JURISDICTION

The orders of the Michigan Supreme Court denying rehearing of its orders of (a) December 14, 1971, denying leave to appeal the Michigan Court of Appeals' orders of (1) May 5, 1971, dismissing petitioner's appeal of the Trial Court's order of October 7, 1970, remunerating receiver and (2) May 28, 1971, awarding costs and (b) December 16, 1971, denying leave to appeal the Michigan Court of Appeals' order of May 5, 1971, dismissing petitioner's appeal of the Trial Court's orders of February 17, 1971, allowing intervention and requiring disbursement are dated January 13, 1972.

28 U.S.C. Sec. 1257(3) is believed to confer jurisdiction on this Court to review the "orders" in question by writ of certiorari. The United States Constitution, Amendment XIV, Sec.1 confers a *duty* on this Court to declare the "orders" to be invalid.

QUESTIONS PRESENTED FOR REVIEW

Please see Petition for Writ of Certiorari in case number 70-289, page 3.

6. Does a court afford a defendant due process of law where it lacks jurisdiction of the case or fails to provide the defendant the prescribed notice or denies the defendant an opportunity to be heard?

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Please see Petition for Writ of Certiorari in case number 70-289, page 4.

STATEMENT OF THE CASE

Please see Petition for Writ of Certiorari in case number 70-289, page 5, and Brief in Reply to Brief in Opposition to Petition for Writ of Certiorari, page 10.

The Trial Court's order allowing intervention (Appendix V, p. 10) like its order of disbursement (Appendix W, p. 12) was entered without any of the three essential elements of due process—jurisdiction, notice, and opportunity to be heard. With regard to the order remunerating receiver (Appendix U, p. 9), there was jurisdiction and notice but no opportunity to be heard. The trial judge refused even to listen to petitioner's arguments.

MANNER OF RAISING FEDERAL QUESTIONS SOUGHT TO BE REVIEWED

Please see petition for Writ of Certiorari in case number 70-289, page 6. Petitioner asks that the writ of certiorari be addressed to the trial court; there is no right of appeal in Michigan regardless of what the statutes[1] or the court

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[1] R.J.A. SEC. 308. Jurisdiction. The court of appeals has jurisdiction on appeals from:

(1) All final judgments from the circuit courts, court of claims, and recorder's court, except judgments on ordinance violations in the traffic and ordinance division of recorder's court. Appeals from final judgments from all other courts and from convictions for ordinance violations in the traffic and ordinance divisions of recorder's court shall be taken to the circuit courts, upon which further review may be had only upon application for leave to appeal granted by the court of appeals.

(2) Such other judgments or interlocutory orders as the supreme court may be rule determine.

R.J.A. SEC. 309. Appeals by right and by leave. All appeals to the court of appeals from final judgments or decisions permitted by this act shall be a matter of right. All other appeals from other judgments or orders to the court of appeals permitted by statute or supreme court rule shall be by right or by leave as provided by the statute or the rules promulgated by the supreme court.

rules[2] may provide. If the Court of Appeals does not want to hear an appeal of a final judgment or order, it simply declares that the final judgment or order is not a final judgment or order at all, and it affords the appellant no opportunity to demonstrate that the final judgment or order is a final judgment or order.

It is hoped that the reader (if any there be) will appreciate the humor in the Court of Appeals' order (Appendix Y, p. 15) dismissing appeals of the trial court's orders allowing intervention and requiring disbursement. (Appendices V and W, p. 10 and p. 12). Without benefit of any motion—without hearing any argument or receiving any evidence, the Court of Appeals found that the orders appealed from were "post-judgment orders", but it never identified the final judgment. Had petitioner been granted an opportunity, he would have demonstrated that the orders appealed from were the *first* orders entered in the case involving the National Bank of Detroit—he would have pointed out to the Court of Appeals that no previous judg-

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[2] G.C.R. 806

Appeals by Right and by Leave.

.1 Appeal as of Right. In all criminal and civil matters, an aggrieved party shall have a right to appeal from all final judgments or final orders from the Circuit Courts, Court of Claims and Recorder's Court, except judgments or ordinance violations in the Traffic and Ordinance Division of Recorder's Court. Appeals from final judgments from all other courts and from convictions for ordinance violations in the Traffic and Ordinance Division of the Recorder's Court shall be taken to the Circuit Courts, upon which further review may be had only upon application for leave to appeal granted by the Court of Appeals. Final judgments or interlocutory orders of courts which by law are appealable to the Circuit Court only upon leave or on appeal are to be tried de novo in the Circuit Court shall continue to be tried in the Circuit Court. See subrule 701.1. Appeals from final or interlocutory judgments of the District Court, Common Pleas Court, or judgments in ordinance cases in the Traffic and Ordinance Division of Recorder's Court shall be taken to the Circuit Court in which such court is located. Appeals as of right shall be taken in accordance with and within the time prescribed by these rules.

ment could have adjudicated the contractual rights and obligations of the National Bank of Detroit because that bank was never a party to the litigation prior to the entry of the orders appealed from. However, as usual, petitioner was afforded no opportunity to be heard. The "judges" of the Court of Appeals refused to hear anything that might have interfered with the bribes they received from Mr. Barris.

No less humorous than the order of dismissal just discussed is the Court of Appeals' order (Appendix X, p. 14) dismissing the appeal of the trial court's order remunerating receiver (Appendix U, p. 9). In this case a motion to dismiss was filed by Mr. Michael W. Hutson, attorney for the receiver (another attorney), but no reason was given for the alleged lack of jurisdiction. It was never even suggested that the order appealed from was not a final order.

ARGUMENT

Please see Petition for Writ of Certiorari in case number 70-289, page 8, and Brief in Reply to Brief in Opposition to Petition for Writ of Certiorari, page 10. As in that petition the orders sought to be reviewed (Appendices U, V, and W, p. 9, p. 10, and p. 12) are invalid for lack of due process of law.

When the "justices" of this court refused to discharge their duty in connection with the previous petition, petitioner learned the extent of Mr. Barris' bribery. It was not necessary for Mr. Barris to have any personal contact with the "justices" of this Court; the American Bar Association took care of everything. Petitioner has to laugh at the words of "Justice" Lewis F. Powell, Jr.

hypocritically written in 1964 while he was President of the American Bar Association:

> "... One of the distinguishing characteristics of a learned profession is a code of conduct which sets it apart from ordinary callings. This is especially true of the legal profession which must conform to the highest ethical and moral standards. ...
>
> The Association is also concerned with more effective enforcement of the Canons. There is a feeling that grievance committees and the courts tend to be unduly lenient in grievance cases. While no one wants punitive action, it must be remembered that the legal profession has the privilege of disciplining itself—to a greater extent than any other profession or calling. This imposes a higher responsibility and one which the Bar must discharge with greater fidelity. ..."

"Justice" Powell must have known at that time what the American Bar Association really was—a corrupt labor union for attorneys and a national clearinghouse for bribes from attorneys to judges.

RELIEF

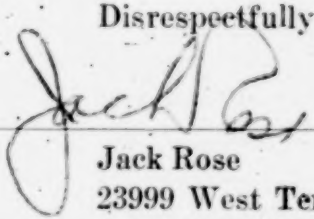
Petitioner demands what the United States Constitution guarantees him:

1. A declaration of invalidity of the orders and judgment review of which is sought in this petition and in the previous petition, and

2. The return to petitioner of the bribes paid by Mr. Ivan E. Barris to "justices" of this Court with petitioner's funds.

Petitioner challenges this Court to order him to show cause why he should not be held in contempt for his accusations.

Disrespectfully submitted,



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Dated February 21, 1972

APPENDIX U

STATE OF MICHIGAN—In the Circuit Court for the County of Oakland

Doris Wertheimer Rose, Plaintiff, vs. Jack Rose, Defendant	Nos.	9276 22744 68-47753

ORDER DISSOLVING RECEIVERSHIP, REMUNERATING RECEIVER AND HIS ATTORNEY AND CANCELLING BOND

At a session of said Court, held in the Court House in the City of Pontiac, Oakland County, Michigan, this 7th day of October, 1970.

PRESENT: HONORABLE JAMES S. THORBURN, Circuit Judge.

This matter having come on to be heard upon the petition of the Receiver, no pleadings having been filed in opposition, argument having been made and the Court being fully informed in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the receivership in this cause is dissolved, the bond of the receiver is canceled, and the receiver, Lynn V. Hooe, Jr., is awarded the sum of Two Hundred Dollars ($200.00) as his fee, and the attorneys for the receiver, Hutson & Hutson, are awarded the sum of One Thousand Three Hundred Fifty Dollars ($1,350.00) as their fee and an additional Twenty-Three Dollars ($23.00) as costs.

JAMES S. THORBURN,
Circuit Judge

APPENDIX V

STATE OF MICHIGAN—In the Circuit Court for the County of Oakland

Doris Wertheimer Rose, Plaintiff, vs. Jack Rose, Defendant. and National Bank of Detroit, Intervening Defendant.	Civil Action Nos. 9276 22744 44753

ORDER ALLOWING INTERVENTION BY NATIONAL BANK OF DETROIT; DISCHARGING NATIONAL BANK OF DETROIT; AND JUDGMENT FOR PERMANENT INJUNCTION

At a session of said Court held in the Court House for the County of Oakland, Pontiac, Michigan on February 17, 1971.

PRESENT: HONORABLE JAMES S. THORBURN, Circuit Judge.

THIS MATTER having come on for hearing, and the Court having heard the arguments of the parties herein, including Defendant Jack Rose appearing in *pro per.*, and being full advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED as follows:

1. The Motion for Intervention filed herein by National Bank of Detroit be and the same hereby is granted, and the proposed Counterclaim and Cross-Complaint tendered by it shall be permitted to stand as filed.

2. The Counterclaim and Cross-Complaint by National Bank of Detroit for Interpleader heretofore filed is properly filed, and this Court has jurisdiction over the subject matter and all parties to the action.

3. National Bank of Detroit be and hereby is discharged from any and all liability to Doris Wertheimer Rose, Ivan E. Barris and Jack Rose, as well as such other persons that may appear to have an interest in National Bank of Detroit irrevocable Letter of Credit No. 24948 or the sum of $600,000 represented thereby, or any part thereof, and who might be subsequently appearing as parties in this cause.

4. Doris Wertheimer Rose, Ivan E. Barris and Jack Rose, their respective agents, employees, attorneys and representatives, and those persons in active concert or participation with them, in the matters alleged in this Counterclaim and Cross-Complaint for Interpleader, be and the same hereby are permanently enjoined and restrained from instituting and or proceeding in any Court any actions concerning National Bank of Detroit irrevocable Letter of Credit No. 24948 or the sum of $600,000 represented thereby, or any part thereof.

JAMES S. THORBURN,
Circuit Judge

APPENDIX W

STATE OF MICHIGAN—In the Circuit Court for the County of Oakland

Doris Rose,
Plaintiff,

vs.

Jack Rose,
Defendant,

and

National Bank of Detroit,
a National banking association,
Intervenor.

Nos. 9276
22744
68-47753

ORDER AUTHORIZING AND REQUIRING CLERK OF OAKLAND COUNTY TO DISBURSE CERTAIN FUNDS

At a regular session of said Court, held in the Court House Tower, Pontiac, Michigan, on February 17, 1971.

The National Bank of Detroit having petitioned to intervene herein and said Petition having been granted and having paid into the Clerk of Oakland County the sum of Six Hundred Thousand — 00/100 Dollars — ($600,000.00) in pursuance of a certain Letter of Credit, and the Plaintiff having filed a Petition for payment to her and to her counsel of said sums of money, and the Court being of the opinion that the Judgment of this Court entered October 22, 1969 is final and that the Plaintiff and her counsel, as their interests might appear are entitled to the disbursement of the aforsaid sums in partial satisfaction of their respective claims as contained in the Judgment.

Now, therefore, on motion of Ivan E. Barris, attorney for the Plaintiff;

IT IS HEREBY ORDERED that the Clerk of Oakland County be and hereby is authorized and required to issue a check or to otherwise disburse the sum of Six Hundred Thousand — 00/100 Dollar ($600,000.00), jointly, to Doris Wertheimer Rose and Ivan E. Barris, upon a presentation of either the original or a true copy of this Order and upon said Ivan E. Barris supplying said Clerk with a receipt in a form and manner satisfactory to the Clerk.

/s/ J. S. THORBURN,
Circuit Judge

APPENDIX X

ORDER OF MICHIGAN COURT OF APPEALS DISMISSING APPEAL OF TRIAL COURT'S ORDER REMUNERATING RECEIVER

At a session of the Court of Appeals of the State of Michigan, held at the Court of Appeals in the City of Lansing, on the 5th day of May in the year of our Lord one thousand nine hundred and seventy-one.

Present the Honorable Robert J. Danhof, Presiding Judge; Timothy C. Quinn, Louis D. McGregor, Judges.

Doris Wertheimer Rose,
Plaintiff-Appellee,
vs.
Jack Rose,
Defendant-Appellant.
L.C. No. 9276

No. 10460-62

In this cause a motion to dismiss and a motion to extend the time for filing brief having been filed by appellee, and a motion for order to show cause having been filed by appellant, and an answer in opposition to the motion to dismiss having been filed, and due consideration thereof having been had by the Court;

IT IS ORDERED that the motion to dismiss be, and the same is hereby GRANTED.

IT IS FURTHER ORDERED that the motion to extend the time for filing appellee's brief be, and the same is hereby DENIED.

IT IS FURTHER ORDERED that the motion for order to show cause be, and the same is hereby DENIED.

(Clerk's certification of May 6, 1971)

APPENDIX Y

ORDER OF MICHIGAN COURT OF APPEALS DISMISSING APPEALS OF TRIAL COURT'S ORDERS ALLOWING INTERVENTION AND REQUIRING DISBURSEMENT

At a session of the Court of Appeals of the State of Michigan, held at the Court of Appeals in the City of Lansing, on the 5th day of May in the year of our Lord one thousand nine hundred and seventy-one.

Present the Honorable Timothy C. Quinn, Presiding Judge; S. Jerome Bronson, Louis D. McGregor, Judges.

Doris Wertheimer Rose,
Plaintiff-Appellee,
vs.
Jack Rose,
Defendant-Appellant,
and
National Bank of Detroit,
Intervening Defendant-Appellee.
L.C. Nos. 9276, 22744, 47753

No. 11395

In this cause a claim of appeal is filed by defendant-appellant and it appearing to the Court that the judgment which the appellant seeks to have reviewed is a post-judgment order not appealable as of right under MCLA § 600.308 (Stat Ann 1971 Cum Supp § 27A.308),

IT IS ORDERED on the Court's own motion that the appeal be, and the same is hereby DISMISSED for lack of jurisdiction, without prejudice to the filing of a delayed application for leave to appeal.

(Clerk's certification of May 12, 1971)

APPENDIX Z

ORDER OF MICHIGAN COURT OF APPEALS AWARDING COSTS

At a session of the Court of Appeals of the State of Michigan, held at the Court of Appeals in the City of Lansing, on the 28th day of May in the year of our Lord one thousand nine hundred and seventy-one.

Present the Honorable Robert J. Danhof, Presiding Judge; Louis D. McGregor, Timothy C. Quinn, Judges.

Doris Wertheimer Rose,
Plaintiff-Appellee,
vs.
Jack Rose,
Defendant-Appellant.
L.C. No. 9276

Nos. 10460 - 10462

In this cause a motion to tax costs is filed by plaintiff-appellee and nothing in opposition thereto having been filed, and due consideration thereof having been had by the Court.

IT IS ORDERED that the motion to tax costs in the amount of $99.50 be and the same is hereby GRANTED.

(Clerk's certification of May 28, 1971)

APPENDIX AA

ORDER OF MICHIGAN SUPREME COURT DENYING LEAVE TO APPEAL

At a session of the Supreme Court of The State of Michigan, held at the Supreme Court Room, in the City of Lansing, on the 14th day of December in the year of our Lord one thousand nine hundred and seventy-one.

Present the Honorable Thomas M. Kavanagh, Chief Justice; Eugene F. Black, Paul L. Adams, Thomas E. Brennan, Thomas G. Kavanagh, John B. Swainson, G. Mennen Williams, Associate Justices.

WM 8-428
Doris Rose,
Plaintiff-Appellee,
vs.
Jack Rose,
Defendant-Appellant.

Nos. 53736-53738

On order of the Court, the delayed application in pro per of defendant and appellant for leave to appeal is considered, and the same is hereby DENIED. GCR 1963, 853.2(3).

(Clerk's certification of December 15, 1971)

APPENDIX BB

ORDER OF MICHIGAN SUPREME COURT DENYING LEAVE TO APPEAL

At a session of the Supreme Court of The State of Michigan, held at the Supreme Court Room, in the City of Lansing, on the 16th day of December in the year of our Lord one thousand nine hundred and seventy-one.

Present the Honorable Thomas M. Kavanagh, Chief Justice; Eugene F. Black, Paul L. Adams, Thomas E. Brennan, Thomas G. Kavanagh, John B. Swainson, G. Mennen Williams, Associate Justices.

WM 8-453
Doris Rose,
Plaintiff-Appellee,
vs.
Jack Rose,
Defendant-Appellant.

Nos. 53764-5-6

On order of the Court, the delayed application in pro per of defendant and appellant for leave to appeal is considered, and the same is hereby DENIED. GCR 1963, 853.2(3).

(Clerk's certification of December 17, 1971)

APPENDIX CC

ORDER OF MICHIGAN SUPREME COURT DENYING REHEARING

At a session of the Supreme Court of The State of Michigan, held at the Supreme Court Room, in the City of Lansing, on the 13th day of January in the year of our Lord one thousand nine hundred and seventy-two.

Present the Honorable Thomas M. Kavanagh, Chief Justice; Eugene F. Black, Paul L. Adams, Thomas E. Brennan, Thomas G. Kavanagh, John B. Swainson, G. Mennen Williams, Associate Justices.

WM 8-453a
Doris Rose,
Plaintiff-Appellee,
vs.
Jack Rose,
Defendant-Appellant.

Nos. 53764-5-6

On order of the Court, defendant's and appellant's in pro per Motion for Reconsideration is considered, and the same is hereby DENIED, for the reason that it does not appear that this Court's order of December 16, 1971 was erroneously entered.

(Clerk's certification of January 13, 1972)

APPENDIX DD

ORDER OF MICHIGAN SUPREME COURT DENYING REHEARING

At a session of the Supreme Court of The State of Michigan, held at the Supreme Court Room, in the City of Lansing, on the 13th day of January in the year of our Lord one thousand nine hundred and seventy-two.

Present the Honorable Thomas M. Kavanagh, Chief Justice; Eugene F. Black, Paul L. Adams, Thomas E. Brennan, Thomas G. Kavanagh, John B. Swainson, G. Mennen Williams, Associate Justices.

WM 8-428a
Doris Rose,
Plaintiff-Appellee,
vs.
Jack Rose,
Defendant-Appellant.

Nos. 43736-7-8 (sic)

On order of the Court, defendant's and appellant's in pro per Motion for Reconsideration is considered, and the same is hereby DENIED, for the reason that it does not appear that this Court's order of December 14, 1971 was erroneously entered.

(Clerk's certification of January 14, 1972)